Government of India
Ministry of Finance
Department of Economic Affairs
PPP Cell

Empowered Committee for the Scheme for financial support for PPPs in Infrastructure

13th Meeting on February 29, 2012.

Record of Discussion

The thirteenth meeting of the Empowered Committee (EC) to consider the proposal for incorporation of new sub-sectors for Viability Gap Funding (VGF) under the Scheme of Support to PPPs in Infrastructure was held on February 29, 2012. The list of participants is at **Annexure-I**.

2. Joint Secretary, Department of Economic Affairs (DEA) presented the proposal. The EC noted that the Scheme provides VGF assistance to the PPP projects belonging to seven broad categories, viz.,

a. Roads and bridges, railways, seaports, airports, inland waterways
b. Power
c. Urban transport, water supply, sewerage, solid waste management and other physical infrastructure in urban areas
d. Infrastructure projects in Special Economic Zones and internal infrastructure in National Investment and Manufacturing Zones
e. International convention centres and other tourism infrastructure projects
f. Capital investment in the creation of modern storage capacity including cold chains and post-harvest storage
g. Education, health and skill development, without annuity provision

To provide adequate flexibility to respond to the changing requirements, the Scheme provides that the Empowered Committee may, with the approval of the Finance Minister, add or delete sectors/sub-sectors from the list of eligible sectors.

3. Joint Secretary, DEA informed that the Prime Minister's Office had directed Ministry of Finance to arrive at a uniform definition of infrastructure in 2009. After extensive deliberations, a Master List of Infrastructure sub-sectors was prepared by

DEA which was considered by the Committee of Secretaries in its meeting held on January 17, 2012. The CoS has recommended the adoption of the harmonized Master List of infrastructure consisting of 29 items in 5 broad sectors which is reproduced at **Annexure-II**. The CoS in its meeting, *inter alia,* also recommended the framework for using the harmonised master list of infrastructure sub-sectors to be as **"***The harmonised Master List of sub-sectors, identified as infrastructure sub-sectors, is meant to guide all the agencies responsible for supporting infrastructure in various ways. It has consciously been decided not to have a rigid and inflexible listing of sub-sectors, to be made universally applicable to all agencies. Each financing agency shall, therefore, be free to spell out its reasons and draw its own list of sub-sectors out of the Master List, that it intends to support, with adequate justification for inclusion/non-inclusion of specific sub-sectors from the Master List. If any agency is presently supporting a sector/sub-sector which is outside the harmonised Master List, it may continue to do so and the matter will be revisited after an appropriate period of time***".**

4. Joint Secretary, DEA informed that the Master List approved by the CoS has been examined with respect to the sectors already eligible for Viability Gap Funding under the Scheme for Support to PPPs in Infrastructure. The sectors under the Master List already eligible for VGF under the Scheme is reproduced at **Annexure-III.** The following seven sub-sectors contained in the Harmonised Master List are currently not eligible for VGF under the Scheme:

1. Oil/Gas/Liquefied Natural Gas (LNG) storage facility (*includes city gas distribution network)*
2. Oil and Gas pipelines *(includes city gas distribution network)*
3. Irrigation (dams, channels, embankments, etc)
4. Telecommunication (Fixed Network) (*includes optic fibre/ wire/cable networks which provide broadband /internet*)
5. Fertiliser (Capital Investment)
6. Telecommunication towers;
7. Terminal markets, common infrastructure in agriculture markets and soil testing laboratories

5. Joint Secretary, DEA indicated that the rationale for inclusion of the above seven sectors as eligible sectors for VGF support under the Scheme, needs to be established with respect to the eligibility conditions for PPP projects prescribed under the Scheme. These are:

i. The project shall be implemented i.e. developed, financed, constructed, maintained and operated for the Project Term by a **Private Sector Company** to be selected by the Government or a statutory entity through a process of **open competitive bidding**.
ii. The project should provide a service against payment of a **pre- determined tariff or user charge**.
iii. The quantum of financial support (VGF) shall be equivalent to the **lowest bid** for capital subsidy, but subject to a maximum of 20% of the total project cost.
iv. The concerned **Government/statutory entity should certify**:
    a. that the tariff/user charge cannot be increased to eliminate or reduce the viability gap of the PPP;
    b. that the Project Term cannot be increased for reducing the viability gap; and
    c. that the capital costs are reasonable and that the capital costs cannot be further restricted for reducing the viability gap.

6. Joint Secretary, DEA informed that all the seven sectors broadly conform to the eligibility conditions of the Scheme. There may be some aspects which, *prime facie,* do not appear to fulfill the eligibility conditions at a generic level, however, it is expected that the Empowered Institution would examine these aspects, after the incorporation of the new sectors, on case to case basis on receipt of PPP proposals for VGF assistance under the Scheme. Accordingly, Joint Secretary, DEA proposed that the EC may recommend that seven sectors to the Finance Minister as eligible sectors under the Scheme for Support to PPPs in Infrastructure.

7. Secretary, Urban Development, indicated that Ministry of Urban Development (MoUD) has requested that rolling stock for road-based urban transport projects should also be included in the Master List for infrastructure. However, since the Scheme for Support to PPPs in Infrastructure prescribes that all urban infrastructure projects are eligible for VGF support, the Ministry would take up the matter separately with DEA regarding the Master List. Joint Secretary, DEA, queried whether storm water drainage is an accepted component of urban infrastructure. Secretary, UD confirmed the same.

8. Additional Secretary, Department of Telecommunications stated that their proposal is to widen the sectors under telecommunication to include broad band and wireless. An examination of status of telecom density in the country by looking at the mean values suggest an average ratio of 76 telephone per 100 persons. However, this mean value is skewed in favour of urban areas (with a ratio of 176 connections per 100 persons) in contrast to rural areas (with a ratio of 37 connections per 100 persons). Similar trends are also observed for access to broad band. Empirical studies also reinforce that penetration of broad band access results in increase in GDP by 1.3 per cent. Further, fixed landlines may not be viable in large parts of rural areas. Hence, wireless networks need to be recognised as a critical component of the telecom sector and similar facilitation should be provided to it. The draft National Telecom Policy also emphasizes the need for consolidation of networks. Hence, as in the Telecom Policy, components of mobile telephony may be included as items eligible for Support under the Scheme.

9. The Chair observed that the present proposal under consideration by the EC is with respect to inclusion of sectors already recommended by the Committee of Secretaries as components of the Harmonized Master List of Infrastructure. Since mobile telephony, including wireless and broad band, is not part of the Master List, it would be appropriate that the matter may be first considered by the Institutional Mechanism provided for incorporation of sector in the Master List.

(Action: Department of Telecommunications)

10. Director General, Ministry of Tourism indicated that the Ministry endorsed the proposal for inclusion of three-star or higher category classified hotels located outside cities with population of more than 1 million under the Master List and Scheme. However, there was need also to consider other tourism facilities in places other than the cities provided in the Master List. He emphasised that the real requirement for facilitation was there for such categories including budget hotels and other lower categories of hotels at smaller towns and places of religious, historical and adventure tourism.

11. Joint Secretary, DEA clarified that "*International convention centres and other tourism infrastructure projects*' are already a sector eligible for VGF Support under the Scheme. Hence, notwithstanding the sub-sectors recommended by the CoS in the Master List of Infrastructure, any PPP project being developed under the tourism sector, irrespective of a population limit or star category granted to hotels, would be eligible for VGF support subject to other eligibility conditions of the Scheme being satisfied.

12. Economic Advisor, Ministry of Petroleum & Natural Gas stated that Oil Pipelines are an approved sub sector under the Master List. Hence, Oil Pipelines may also be included along with Gas Pipelines as sub sector eligible for VGF support. Joint Secretary, DEA responded that Oil Pipelines has been inadvertently overlooked in the Agenda Note for the meeting of the EC and are a component of the proposal for being considered by the EC for inclusion as sub-sector eligible under the VGF Scheme. Further, the examination regarding the proposed sub sectors meeting the eligibility conditions of the Scheme includes assessment of Oil and Gas Pipelines and finds the sector admissible for inclusion under the Scheme.

13. Economic Advisor, Ministry of Petroleum & Natural Gas requested that refineries may also be included for eligibility for VGF support. Joint Secretary, DEA stated that the proposal was also placed before the CoS for inclusion in the Harmonized Master List and not recommended for incorporation therein. Hence, it may not be included as a sub-sector eligible VGF support at the current juncture. The Chair concurred with the view.

14. The Chair queried whether the irrigation sector is amenable for structuring as PPP projects with VGF support and user charges. Joint Secretary, DEA indicated that many power sector distribution companies would find such projects of interest on account of the reduction in the requirement of power for irrigation projects. He stated that during consultations, DISCOMs in States of Haryana, Madhya Pradesh and Rajasthan have indicated interest in such projects.

15. Joint Secretary, Department of Expenditure (DoE) stated that comments of the Department relate to two aspects, *viz*., generic observations for inclusion of new sub sectors under the Scheme based on the Master List (other than Fertilizer) and observation regarding inclusion of PPP projects in Fertilizer sector for VGF funding.

a. Joint Secretary, DoE stated that regarding **all new sub-sectors (also including fertilizers),** there might be the case with many of the sub-sectors now proposed to be brought out as a Harmonized Master List for incorporation under the Scheme. However, these need to be verified in detail, in consultation with line ministries, to get an in-depth analysis of this proposal. There are a lot of nuances in each sub-sector which are difficult to discern in the generic names of the relevant sub-sectors being proposed. Various incentives exist for other sub sectors such as electricity transmission, electricity distribution, cold chain, terminal markets, post harvest storage infrastructure, educational institutions, etc. A more detailed proposal for each of the sub-sectors coming from the line ministry will be more appropriate for such analysis. Within the various categories being considered for adoption as the harmonized Master List, there are several infrastructure sub sectors which are commercially viable and can access general bank financing, again underlining the need for a detailed analysis of the proposed sub sectors. It would also be useful if the line Ministries identify and address the policy gaps/lacunae which result in insufficient demand for these commercially viable facilities in specific areas of the country. After addressing the same, if a particular line Ministry is of the view that the facility is still not coming up because of a VGF issue, then these sectors may be included based on specific analysis.

b. Joint Secretary, DoE stated that the proposal to include Fertilizers Sector in the Harmonised Master List requires to be considered in the backdrop of the present subsidy policy and must seek to avoid unintended double benefits to certain sections of the Sector. Fertilizer sector can be broadly divided in two parts, viz, Urea and P&K fertilisers. In respect of Urea, the Government is actively considering a New Investment Policy, which seeks to compensate the manufacturers with a certain specified percentage of the prevalent Import Parity price subject to a certain ceiling, but at the same time, guaranteeing a minimum 12 per cent rate of return on equity. The Policy has already been recommended by the EGoM on Fertilizers and is expected to be considered by the Cabinet shortly. It may be appreciated that any further assistance proposed under the VGF Scheme will necessarily demand adjustments in floor/ceiling prices applicable on new investments, on case to case basis, if it is to be ensured that no double benefit is given. Similarly, for P&K fertilizers, wherein market based NBS subsidy regime is in operation, the subsidy admissible on each fertilizer is calibrated carefully keeping in view the IPP and intended farm gate prices. In this scenario, any capital assistance in the form of VGF to some units will pose complications as such units will receive much higher gains than intended.

16. Joint Secretary, DoE drew attention to the report by Prof. Abhijit Sen Committee on New Investments in Urea Sector (2008), which recommends that:

*"The floor and ceiling prices recommended above are based on the assumption of **no fiscal incentives being allowed on the capital investments in this sector**……. Fiscal incentives have been proposed by DOF to provide a competitive edge to indigenous industry vis-à-vis the international industry, which has a sharp advantage by way of cheaper feedstock. There is a strong case for fiscal incentives in this sector…….. In case*

fiscal incentives are decided to be provided to this sector, the floor and ceiling should be accordingly reduced to take into account the reduced project costs.."

17. Joint Secretary, DoE emphasized that the Prof Abhijit Sen Committee did not envisage grant of VGF or capital grant to the sector. Further, the contours of the present proposal are not amenable for a detailed examination and requested that while detailing the scheme and working out modalities for capital assistance in Fertilizer sector, it may be ensured the DoE is consulted, so as to preclude the possibility of any unintended double benefit.

18. Joint Secretary, DEA responded to the observations by Joint Secretary, DoE as under:

a. The instant proposal does not aim to amend sectors that are already eligible for VGF assistance. Hence, Power sector which is already an eligible sector is not under consideration. Further, grant of VGF to a project is only if the stringent conditions of the Scheme are satisfied. These eligibility conditions have been able to ensure that benefit does not accrue to projects that are already being incentivized by the Government through other mechanisms or that are financially viable. Consequently, till date no power generation or distribution projects have been granted approval under the Scheme. It was observed that only one project for power transmission in the State of Haryana has been granted VGF since the notification of the Scheme in 2006.

b. Inclusion of a sector as an eligible sector does not immediately result in demands on VGF. Modern silos have been included as a sector eligible for assistance for VGF during March 2011. However, despite constant follow up by Planning Commission and DEA, the project structuring for such projects has not been finalized by the line Ministry concerned. PPP projects in sectors other than the road sector where the PPP framework is accepted across States generally require considerable efforts at structuring at GoI level before they reach the Empowered Institution of the Scheme for consideration. Hence, the concerns of Department of Expenditure regarding policy/ structural lacunae, financial viability and double incentivisation are likely to be addressed at the stage of project structuring.

c. Inclusion of all the sectors approved for incorporation in the harmonized Master List shall ensure that if there is a PPP project in these sectors which is satisfying the eligibility conditions and has private sector willing to invest in it, then the VGF could serve as a useful instrument to facilitate the same.

d. Specifically with regard to inclusion of capital investment in Fertilizer as a sub sector eligible under the Scheme, the CoS had allowed its inclusion in the harmonized Master List in view of the food security considerations. Furthermore, the subsidy in the sector was available for Urea and not other components, especially bio-fertilisers that require facilitation. The Empowered Institution, while considering PPP projects of the sector, shall ensure that double benefit does not accrue to any project.

e. In view of the above, all the proposed sectors may be recommended by the EC to the Finance Minister for incorporation as eligible sub sectors under the Scheme.

19. Secretary, Urban Development endorsed the views of Joint Secretary, DEA and recommended that the capital investment in Fertilizer sector merited inclusion under the Scheme. He emphasized that the concerns about existing subsidy and double benefits was applicable only for Nitrogenous /Urea fertilizers and not for Phosphorous and Potassium (P&K) fertilizers.

20. The Chair queried whether the recommendation of inclusion of PPP projects in fertilizer sector as eligible for Viability Gap Funding should be accompanied by separate guidelines regarding the manner of estimation of quantum of subsidy from other sources that would be admissible for the projects prior to grant of VGF. Director, DEA informed that Rule 5.7 of the Scheme prescribe that in cases where Viability Gap Funding is budgeted under any ongoing Plan Scheme of the Central Government, the *inter se* allocation between such ongoing scheme and this Scheme shall be determined by the Empowered Committee.

21. Additional Secretary, DEA and Chair of the Empowered Institution of the Scheme observed that separate guidelines are not required for inclusion of a particular sub sector as eligible for Viability Gap Funding under the Scheme since all sectors are expected to adhere to the Guidelines of the Scheme and its eligibility conditions. Further, it was informed that the Empowered Group of Ministers on Fertilizers, in its recent meeting, had noted that the sector may be eligible for Viability Gap Funding after the finalization of the Harmonised Master List of Infrastructure. Since there is a general consensus for inclusion of fertilizer sector (capital investment) for VGF support, the sector may be included as eligible under the Scheme. Final modalities and details may be established while considering a PPP project under the fertilizer sector requiring VGF assistance.

22. The Chair queried whether the VGF under the Scheme can be granted during the period of operations of a project. Director, DEA informed that Rule 4.2 of the Scheme prescribes that VGF under the Scheme will normally be in the form of a capital grant at the stage of project construction. However, proposals of any other form of assistance may be considered by the Empowered Committee and sanctioned with the approval of the Finance Minister on a case to case basis.

23. The Chair observed that the concern of Department of Expenditure was not with respect to provision of VGF for PPP projects in the Fertilizer sector but a caution against provisioning a double benefit, viz., VGF during period of construction and Fertilizer subsidy during period of operations. Since VGF is the bid variable and determined up-front during the bid process and the Fertilizer subsidy is linked to the quantum of production, careful thought is required to establish the modality for ensuring that the two incentives are aligned. Joint Secretary, DoE agreed with the observations of the Chair.

24. The Chair requested Joint Secretary, DoE to take a lead in establishing a modality to provide VGF assistance for PPP projects in the Fertilizer sector, in consultation with Ministry of Fertilizers and Department of Economic Affairs and present the recommendations on the subject in the next meeting of the Empowered Committee.

(Action: DoE, DEA & M /o Fertilizers)

25. The Empowered Committee noted that Planning Commission has supported the inclusion of sub sectors under the Harmonised Master List of Infrastructure as sectors eligible for VGF under the Scheme, with exception to three sub sectors, viz.,

a. **Storm Water Drainage System:** There can be no revenue generation from drainage system and this item is not amenable to VGF support which is meant for PPP projects. This item is already covered for Central assistance under the JNNURM. Hence, the Planning Commission does not support its inclusion in the list.
b. **Fertilizers:** Fertilizer is a traded commodity and its prices are severely distorted. Granting VGF to the Fertiliser sector could lead to similar demands for coal, steel, cement, petroleum products etc. Fertiliser plants are regarded as manufacturing industry and are not as infrastructure by the National Statistical Commission (NSC) chaired by Dr C. Rangarajan. Fertilizer plants are not amenable to VGF support which is meant for PPP projects. Moreover, it will be difficult to include VGF in calculation of cost for purpose of controlled pricing.

c. **Three-star or higher category hotels:** Hotels do not qualify as infrastructure under characteristics identified by NSC. Moreover, they are private projects and are not amenable to VGF support which is meant for PPP projects. Hence, the Planning Commission does not support inclusion of this item in the list.

26. Joint Secretary, DEA informed that Storm Water Drainage Systems are already eligible under the Scheme under the sub sector "other physical infrastructure in urban areas" under Rules 3(ii)(c) of the Scheme. Similarly, three-star and higher category hotels are already eligible under the Scheme under the sub sector "other tourism infrastructure projects" under Rules 3(ii)(e) of the Scheme. It was suggested that observations of Planning Commission with respect to the Fertilizer sector may be considered by the Group of Officers, chaired by Joint Secretary, DoE while establishing the modality for provide VGF assistance for PPP projects in the Fertilizer sector. This was agreed to.

(Action: DoE, DEA & M /o Fertilizers)

27. The Empowered Committee recommended the inclusion of the following sub sectors as eligible for VGF support under the Scheme for Support to PPPs in Infrastructure to the Finance Minister:

a. Oil/Gas/Liquefied Natural Gas (LNG) storage facility (*includes city gas distribution network)*
b. Oil and Gas pipelines *(includes city gas distribution network)*
c. Irrigation (dams, channels, embankments, etc)
d. Telecommunication (Fixed Network) (*includes optic fibre/ wire/cable networks which provide broadband /internet*)
e. Telecommunication towers; and,
f. Terminal markets, common infrastructure in agriculture markets and soil testing laboratories

(Action: DoE)

28. The meeting ended with a vote of thanks to the Chair.

Annexure-II

Master List of Infrastructure Sub-sectors

S No	Category	Infrastructure sub-sectors
1.	Transport	• Roads and bridges • Ports • Inland Waterways • Airports • Railway Track, tunnels, viaducts, bridges[1] • Urban Public Transport (except rolling stock in case of urban road transport)
2.	Energy	• Electricity Generation • Electricity Transmission • Electricity Distribution • Oil pipelines • Oil/Gas/Liquefied Natural Gas (LNG) storage facility[2] • Gas pipelines[3]
3.	Water & Sanitation	• Solid Waste Management • Water supply pipelines • Water treatment plants • Sewage collection, treatment and disposal system • Irrigation (dams, channels, embankments etc) • Storm Water Drainage System
4.	Communication	• Telecommunication (Fixed network)[4] • Telecommunication towers
5.	Social and Commercial Infrastructure	• Education Institutions (capital stock) • Hospitals (capital stock)[5] • Three-star or higher category classified hotels located outside cities with population of more than 1 million • Common infrastructure for industrial parks, SEZ, tourism facilities and agriculture markets. • Fertiliser (Capital investment) • Post harvest storage infrastructure for agriculture and horticultural produce including cold storage

[1] Includes supporting terminal infrastructure such as loading/unloading terminals, stations and buildings
[2] Includes strategic storage of crude oil
[3] Includes city gas distribution network
[4] includes optic fibre/ wire/cable networks which provide broadband /internet
[5] Includes Medical Colleges, Para Medical Training Institutes and Diagnostic Centres

		• Terminal markets • Soil-testing laboratories • Cold chain[6]

Annexure-III

Eligible sectors under the Scheme and the Master List of Infrastructure

VGF Scheme	Master List
a. Roads and bridges, railways, seaports, airports, inland waterways	• Roads and bridges • Ports • Inland Waterways • Airports • Railway Track, tunnels, viaducts, bridges
b. Power	• Electricity Generation • Electricity Transmission • Electricity Distribution
c. Urban transport, water supply, sewerage, solid waste management and other physical infrastructure in urban areas	• Urban Public Transport (except rolling stock in case of urban road transport) • Solid Waste Management • Water supply pipelines • Water treatment plants • Sewage collection, treatment and disposal system • Storm Water Drainage System
d. Infrastructure projects in Special Economic Zones and internal infrastructure in National Investment and Manufacturing Zones	• Common infrastructure for industrial parks, SEZ
e. International convention centres and other tourism infrastructure projects	• Common infrastructure for tourism facilities • Three-star or higher category classified hotels located outside cities with population of more than 1 million
f. Capital investment in the creation of modern storage	• Post harvest storage infrastructure for agriculture and horticultural produce

[6] Includes cold room facility for farm level pre-cooling, for preservation or storage of agriculture and allied produce, marine products and meat

capacity including cold chains and post-harvest storage	including cold storage • Cold chain
g. Education, health and skill development, without annuity provision	• Education Institutions (capital stock) • Hospitals (capital stock)